IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.96 OF 2004

Mohini Shivdasani ...Petitioner.
Versus
Poonam M.Shivdasani
and 3 Ors. ...Respondents.

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Mr.Rajiv Mane, Advocate for the Petitioner.
Mr.P.P.Desai, Advocate for Respondent No.1.
Mr.A.M.Vernekar, Advocate for Respondent No.3.
Mr.S.V.More, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : AUGUST 16, 2006.

P.C.:

1. Heard Mr.Mane learned Counsel for the petitioner, Mr.Desai learned Counsel for Respondent No.1, Mr.Vernekar learned Counsel for Respondent No.3 and Mr.More learned APP for the State.

2. The petitioner is seeking quashing of proceedings in CC No.35/S/03, which is pending before the Metropolitan Magistrate, 14th Court at

Girgaum, Mumbai. In the said case, process was issued against the petitioner under Sections 387, 506(2) r/w. 34 of IPC. Now, the said case is transferred to the 40th Court at Girgaum, Mumbai.

3. In the said case only process has been issued against the petitioner as well as Respondent No.2. In view of the decision of this Court in the case of **V.K.Jain and others Vs. Pratap V. Padode, reported in 2005(3) Mh.L.J.778,** I am of the opinion that the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer the necessary revision before the concerned Sessions Court. The learned Counsel for the petitioner makes a statement that the necessary revision will be preferred within a period of six

weeks from today. In view of this statement, the stay granted by this Court to the proceedings, stands extended for a period of six weeks from today. It is made clear that if the revision is not filed within a period of six weeks from today, the trial shall proceed.

5. In case, the revision is preferred within a period of six weeks from today, the learned Sessions Judge shall dispose of the matter on merits after hearing the necessary parties. Mr.Desai learned Counsel for Respondent No.1-original complainant fairly states that no objection would be raised in respect of delay in filing revision before the concerned Sessions Court.

6. Criminal Writ Petition is disposed of.

(SMT.V.K.TAHILRAMANI,J.)